

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN KLOMSTEN,

Plaintiff,

Case No. 22-cv-264-pp

v.

MJ CONSTRUCTION, INC.,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 10)**

On April 18, 2022, the defendant filed a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(1). Dkt. No. 10. The defendant argues that the case should be dismissed for lack of subject matter jurisdiction because “the matter in controversy does not exceed the sum or value of \$75,000 exclusive of interest and costs” as required under 28 U.S.C. §1332(a). *Id.* at 1.

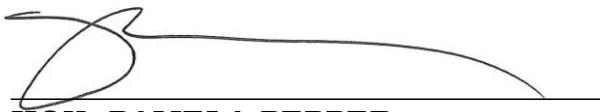
Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion he must do so within twenty-one days—that is by May 13, 2022. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that he has another option—he may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that a responsive amendment may avoid the need to decide the motion or reduce

the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by May 13, 2022 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 19th day of April, 2022.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge